

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CLARENCE WARREN,
Plaintiff

v.

WILLIAM WARD; GARY R. LUCHT;
BARBARA DESCHER; RICHARD KIPP;
BEJAMIN MARTINEZ; NICHOLAS
MULLER; SEAN R. RYAN and
MICHAEL WEBSTER,
Defendants

No. 1:00-CV-1384

(Judge Rambo)
(M.J. Smyser)

FILED
HARRISBURG, PA.

NOV 21 2001

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

MARY E. DIANDREA, CLERK
Per 9/5
Deputy Clerk

Defendants, William Ward, Gary Lucht, Barbara Descher, Richard Kipp, Benjamin Martinez, Nicholas Muller, Sean Ryan and Michael Webster, by their attorneys, hereby move the Court pursuant to Fed. R.Civ. P. 56 for summary judgment in their favor because the pleadings are closed, there are no genuine issues of material fact, and they are entitled to judgment in their favor as a matter of law.

WHEREFORE, Defendants ask the Court to grant their motion and enter summary judgment in their favor.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:

Gwendolyn T. Mosley
GWENDOLYN T. MOSLEY
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

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Plaintiff	:	
	:	No. 1:00-CV-1384
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WILLIAM WARD; GARY R. LUCHT;	:	(Judge Rambo)
BARBARA DESCHER; RICHARD KIPP;	:	(M.J. Smyser)
BEJAMIN MARTINEZ; NICHOLAS	:	
MULLER; SEAN R. RYAN and	:	
MICHAEL WEBSTER,	:	
Defendants	:	

DEFENDANTS' STATEMENT OF UNDISPUTED MATERIAL FACTS

Defendants, by their attorneys, pursuant to Fed. R.Civ. P. 56 and L.R.M.D. 56.1 hereby submit the following material facts as to which there is no genuine dispute:

1. Clarence Warren is African-American and is confined at the State Correctional Institution at Rockview.
2. Clarence Warren was convicted in 1987 of rape, involuntary deviate sexual intercourse and corruption of a minor in Philadelphia County and sentenced to 10 to 20 years.
3. Warrens' conviction stem from the rapes and sexual assaults over a two year period upon his nieces and nephews. Warren was found guilty on the charges.
4. Warren's minimum sentence expired on October 1, 1997 and his maximum sentence is set to expire on October 1, 2007.
5. Warren was first reviewed for parole on September 11, 1997. At that time, the Parole Board refused Warren parole because of the assaultive nature of the offenses, a very highly

assaultive behavior potential, the injury to the victims, his need for counseling and treatment and an unfavorable recommendation from the Department of Corrections.


6. Warren has been reviewed for parole several times since September 11, 1997, the most recent time on November 13, 2001.

7. The Board has never based its decision to deny Warren parole on his race. On the contrary, the Board properly exercised its discretion and based its decisions upon its need to assure public safety and, most recently, upon Warren's own acknowledgment that he is not ready to be paroled. Given the nature of Warren's crimes and his admitted lack of readiness, the Board determined that it was in the public's best interests to keep him confined so that he could receive the maximum rehabilitation through treatment.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


GWENDOLYN T. MOSLEY
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

OFFICE OF ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120
717-787-1180

DATE: November 21, 2001

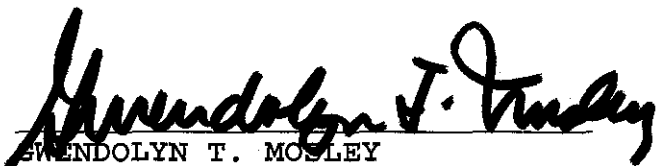
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BEJAMIN MARTINEZ; NICHOLAS	:	
MULLER; SEAN R. RYAN and	:	
MICHAEL WEBSTER,	:	
Defendants	:	

CERTIFICATE OF SERVICE

I, GWENDOLYN T. MOSLEY, Senior Deputy Attorney General
for the Commonwealth of Pennsylvania, Office of Attorney General,
hereby certify that on November 21, 2001, I caused to be served a
true and correct copy of the foregoing document **Defendants'**
Motion for Summary Judgment by depositing it in the United States
mail, first-class postage prepaid to the following:

Clarence Warren, AY-9619
SCI-Rockview
Box A
Bellefonte, PA 16823-0820


GWENDOLYN T. MOSLEY
Senior Deputy Attorney General